

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 66

Docket No. MC2014-2

Competitive Product Prices
Priority Mail Contracts 66 (MC2014-2)
Negotiated Service Agreement

Docket No. CP2014-2

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL CONTRACT 66 TO THE
COMPETITIVE PRODUCT LIST

(October 31, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1859.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail Contract 66 to the competitive product list.² This contract is the successor agreement to contracts in Docket Nos. MC2010-32 and CP2010-77. The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), and a copy of the applicable Governor's Decision No. 11-6.³ The Postal Service filed (under seal) unredacted versions of the: (1) contract related to its Request; (2) Governors' Decision No. 11-6; and, (3) supporting financial data.

¹ PRC Order No. 1859, Notice and Order Concerning the Addition of Priority Mail Contract 66 to the Competitive Product List, October 24, 2013.

² Request of the United States Postal Service to Add Priority Mail Contract 66 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 23, 2013. (Request). The Postal Service also asserts that its filing is in accordance with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 et seq.

³ Decision of the Governors of the United States Postal Service on Establishment of Prices and Classifications for Domestic, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

According to the Postal Service, Priority Mail Contract 66 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. Additionally, the Postal Service maintains that the prices and classification underlying the instant contract are supported by Governors’ Decision No. 11-6. The Statement of Supporting Justification provides support for adding Priority Mail Contract 66 to the competitive product list and the compliance of the instant contract with 39 C.F.R. § 3020.32. Request at 2.

The instant contract’s effective date is the day following the date on which the Commission issues all necessary regulatory approvals. *Id.*, Attachment B at 2. The contract is scheduled to expire 3 years from the effective date unless either party terminates the contract in writing and with 30 days notice to either Party. *Id.*

COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, and the financial data and model filed under seal that accompanies the Postal Service’s Request. However, the Postal Service failed to provide a file footnoted in the worksheet titled “Analysis” of the Excel file PM66_Analysis_public.xls. The missing file, “SupportPriority_FY12.xls”, is necessary to review the calculated costs per piece. In future dockets and to allow a more thorough analysis of the Postal Service’s cost assumptions, the Public Representative requests that the Postal Service be directed to file all referenced material used in determining revenues, costs and cost coverages as public or non-public as appropriate.

Based solely upon the information provided, the Public Representative concludes that Priority Mail Contract 66 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that the instant contract should generate sufficient revenues in its first year to cover costs and thereby satisfy the requirements of 39 U.S.C. § 3633(a). In the contract, the Postal Service includes a clause that allows for the customized prices to be updated if the published rates, of general applicability for Priority Mail Commercial Plus, change. Request, Attachment B at 2.

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Contract 66 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission consider whether “the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.” 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service makes a number of assertions that address the considerations of section 3642(b)(1). Request, Attachment D, at 2. These assertions appear reasonable. Based upon them, the Public Representative concludes that the Postal Service’s Request to add Priority Mail Contract 66 to the competitive product list is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service’s competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share to the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service’s Request, it appears the negotiated prices in the instant contract should generate sufficient revenues to cover costs during its first year.

As noted above, however, the instant contract is expected to remain in effect for a period of three years. The Postal Service provides no data to demonstrate that the instant contract will comply with the requirements of 39 U.S.C. § 3633(a) during the three-year period of the contract. However, the terms of the instant contract provide a formula for an annual adjustment in the negotiated rates that may continue to permit revenues to cover costs during years 2 and 3 of the contract.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

A handwritten signature in cursive script, appearing to read "Pamela A. Thompson", written in black ink.

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